

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:16-cv-89-RLV  
(5:99-cr-71-RLV-5)**

**RUSSELL GARNET TURNER,** )  
 )  
 **Petitioner,** )  
 )  
 **vs.** )  
 )  
 **UNITED STATES OF AMERICA,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. (Doc. No. 1.) Petitioner seeks relief under Johnson v. United States, 135 S. Ct. 2551 (2015).

On May 20, 2016, Petitioner placed a motion seeking authorization to file a second or successive § 2255 motion in federal district court in the prison mail system. In re: Russell Turner, No. 16-946 (4th Cir.), Doc. No. 2. It was docketed in the Fourth Circuit Court of Appeals on May 27, 2016. The Fourth Circuit denied Petitioner's motion on June 13, 2016. See id. at Doc. No. 7. Petitioner filed the instant Motion to Vacate in this Court on May 20, 2016, when he placed it in the prison mail system. (Doc. No. 1-1 at 16.)

On November 17, 2015, the judges of this Court issued a Standing Order appointing the Federal Defenders of Western North Carolina to represent any defendant who was previously determined to have been entitled to appointment of counsel, or who is now indigent, to determine if that defendant is eligible for relief under Johnson. Standing Order in re: Johnson v. United States, No. 3:13-mc-00196-FDW (W.D.N.C. Nov. 17, 2015). Petitioner was previously

determined to be indigent.

Petitioner appears to fall within the purview of this Court's Standing Order. The Court will allow the Federal Defender sixty (60) days to review Petitioner's case to determine if he is eligible for relief under Johnson through an action other than a motion to vacate pursuant to § 2255.

**IT IS, THEREFORE, ORDERED** that no later than sixty (60) days from entry of this Order, the Federal Defenders of Western North Carolina shall file a supplement or amendment to Petitioner's motion to vacate *or* notice that it does not intend to file a supplement or amendment.

**IT IS FURTHER ORDERED** that the Clerk of Court shall provide a copy of this Order to Petitioner and the Federal Defenders of Western North Carolina.

Signed: October 7, 2016

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
United States District Judge

